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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re MICHAEL B., III et al.,
Persons Coming Under the
Juvenile Court Law.

B288264
(Los Angeles County
Super. Ct. No. CK88044 A,
C, D, E, 17CCJP01229A)

LOS ANGELES COUNTY
DEPARTMENT OF
CHILDREN AND FAMILY
SERVICES,

Plaintiff and Respondent,

v.

MICHAEL B., Jr.,

Defendant and Appellant.

Appeal from an order of the Superior Court of Los Angeles
County, Rashida A. Adams, Judge. Affirmed.

Judy Weissberg-Ortiz, under appointment by the Court of Appeal, for Defendant and Appellant.

Mary C. Wickham, County Counsel, Kristine P. Miles, Acting Assistant County Counsel, Kimberly Roura, Deputy County Counsel, for Plaintiff and Respondent.

I. INTRODUCTION

This case is before the court of appeal for the second time. In the prior appeal (case No. B250269), our colleagues in Division 8 affirmed the juvenile court’s jurisdictional findings and orders. In this appeal, Michael B., Jr. (father) appeals from the juvenile court’s order that he participate in a 52-week parenting class. We affirm.

II. PROCEDURAL AND FACTUAL BACKGROUND

The following are the relevant facts and procedural background from the opinion in case No. B250269:

“[D.W.] is the mother of three children by father—Michael B. (born in 2007), M.B. (born in 2010) and M.B.1 (born in 2013).¹

¹ Mother is also the parent of a fourth child, L.W., who has a different father. Although the juvenile court proceedings involved all four children, father’s appeal addresses only his three children. Mother has not appealed. Because of the similarity of names between father and the oldest child, we refer to father as father and his son as Michael. All statutory references are to the Welfare and Institutions Code.

“The current case was based on a referral . . . on March 6, 2013, the result of mother testing positive for marijuana while in the hospital giving birth to M.B.1. M.B.1’s test was negative. Mother told the social worker about previous domestic violence, that she and father were no longer in a romantic relationship (although father was the father of M.B.1), and father no longer lived in the home. Mother was generally dismissive of any drug problem, saying that a past positive screen for cocaine was due to her taking a Vicodin pill a friend gave her and being in a car with her cousin who was smoking marijuana.² Mother smoked marijuana nearly every day but not in front of the children. On March 9, 2013, mother obtained a medical marijuana card. . . . [¶]

“On April 2, 2013, the department filed a section 300 petition alleging domestic violence and the parents’ substance abuse. . . . [¶] On May 21, 2013, the juvenile court sustained the petition, finding true the allegations concerning the parents’ domestic violence (§ 300, subd. (a)), mother’s current drug use and father’s past drug use (§ 300, subds. (a) & (b)). The court ordered that the children remain with mother and that mother receive maintenance services. No specific orders were made for father but the department was permitted to give appropriate referrals.³ Father timely appealed.”

² In a subsequent report the social worker stated that, according to the testing laboratory, Vicodin would “absolutely not” show a positive drug test for cocaine.

³ At the hearing, children’s counsel asked the court to make the jurisdictional findings and submitted on the disposition. Children’s counsel has not filed a brief on appeal.

The following are the facts and procedural background for the period after the opinion in case No. B250269:

On January 29, 2014, the previous dependency case was closed.

In March 2015, the department received a referral after M.B. went to school with a bruise and scratch around his eye and a bruise on his back. He gave conflicting stories about who caused the bruises.

That same month, father was arrested for conspiracy to sell drugs. He was released on April 11, 2015. Father denied he intended to sell drugs and stated he was “fighting the case.”

On March 30, 2015, the department filed a section 300 petition alleging, as ultimately sustained, that mother physically abused M.B. by striking him with a broom and a book, mother previously struck M.B. with a sandal, and M.B. and his siblings Michael and L.W. previously were dependents of the juvenile court due to mother’s physical abuse of Michael.

Father told a social worker he had been diagnosed with anxiety, insomnia, post-traumatic stress disorder, and seizures. He worked as a security guard and warehouse worker, but had not been employed for a while due to having seizures. Father smoked marijuana to medicate his mental health symptoms. Father was taking an antidepressant, but not receiving mental health services. He denied a history of other drug use, but admitted he used to sell cocaine.

Mother gave birth to M.B.2 in May 2015. The department filed a section 300 petition with respect to M.B.2 alleging mother recently and previously abused M.B. and M.B.2’s siblings were prior dependents of the juvenile court (counts a-1, b-1, and j-1); father previously physically and excessively disciplined Michael

and mother failed to protect Michael (counts a-2, b-2, and j-2); mother and father had a history of engaging in domestic violence, father had been arrested for domestic violence, and mother failed to protect M.B.2's siblings when she permitted father to remain in the home (counts a-3, b-3, and j-3); mother's history of cocaine and marijuana use and her current marijuana abuse rendered her incapable of providing M.B.2 with regular care, mother used marijuana during her pregnancy with M.B.2, and M.B.2's siblings were prior dependents of the juvenile court (counts b-4 and j-4); and father had a criminal history of convictions for possession of a controlled substance—cocaine, marijuana, and PCP, and transportation/sale of a controlled substance (count b-5).

According to the department's June 1, 2015, Detention Report, father told a social worker that his family needed to be helped and not be torn apart. Father complained that in the past mother had been given services, but he had not. Asked what services he believed he could benefit from, father stated that he would like to be referred to Project Fatherhood. At the detention hearing, the juvenile court ordered monitored visits with M.B.2 for mother and father.

The department's August 11, 2015, Jurisdiction/Disposition Report stated that father had been provided referrals for parenting, anger management, domestic violence, substance abuse, employment, housing assistance, and mental health services. In July 2015, father told a social worker he was attending parenting classes with Project Fatherhood.

Mother was reported to have visited the children while under the influence of methamphetamine and cocaine. Mother behaved erratically, talking to herself and hallucinating.

At the adjudication hearing on August 11, 2015, the juvenile court dismissed the a-2 and b-2 counts as to Michael, L.W., M.B., and M.B.1. It dismissed the b-1, b-2, b-3, b-5, j-2, j-3, and j-4 counts as to M.B.2. The court declared the children to be dependents of the court, removed them from their parents' custody, and granted family reunification services.

Father's reunification services consisted of six random or on-demand consecutive drug tests. If father missed or failed any test, he was to complete a full drug rehabilitation program with random testing. Father also was to take a parenting class on fatherhood and to complete individual counseling that addressed case issues. He was granted monitored visits.

In its February 9, 2016, Status Review Report, the department reported that father provided verification of his enrollment in the Project Fatherhood program. A program representative stated that father actively participated in the classes and was very engaged during classes and group sessions. Father had four positive drug tests for marijuana and two no shows. He had recently begun visiting the children in person, and had spoken with the children regularly "via face time telephonically."

The department's May 31, 2016, Status Review Report stated that father had been accepted into a housing program and was then residing in a single apartment. He was unemployed because he had frequent seizures. Father stated he was about to start individual counseling.

In its October 3, 2016, Status Review Report, the department reported that father had been in individual

counseling since June 2016.⁴ A social worker deemed father's home appropriate for overnight visits. Although father had completed one year in the Project Fatherhood program, he continued to participate actively in the parenting classes.

At the November 28, 2016, 18-month review hearing, the juvenile court ordered the children placed in the home of parents.⁵ The court further ordered family maintenance services.

In its May 26, 2017, Status Review Report, the department reported that the children continued to live with mother. Mother had given birth to M.B.3 in April 2017. At M.B.3's birth, mother and M.B.3 tested negative for illegal substances. The hospital reported to the social worker, however, that mother tested positive for methamphetamine during a prenatal checkup on March 24, 2017.

Father provided support to mother and the children but did not live with them. Father's single apartment was not far from mother's residence.

On May 26, 2017, the juvenile court ordered mother and father to drug test. Between June 22 and September 7, 2017, mother had two negative drug tests and seven no shows. On September 28, 2017, mother tested positive for methamphetamine. Between June 22 and September 12, 2017, father had four positive tests for marijuana, one of which also was positive for alcohol, and three no shows.

On July 12, 2017, the department received a referral when mother "left the older children to fend for themselves and watch

⁴ A later report stated father participated in individual counseling from June to July 2016.

⁵ L.W. was ordered placed in mother's home.

over the younger three children” while mother slept. She was unwilling to attend to the children when found by the reporting party. Mother denied drug use. The referral was found to be substantiated.

On August 28, 2017, the police found Michael and M.B. out at night unattended. They were returned to mother who explained that she permitted them to sell candy. The officers checked mother’s name in their “system” and determined she had an outstanding warrant. Mother was taken into custody, and ultimately placed on probation for three years.

On October 11, 2017, father explained to department social workers that the children could not be placed in his care at his residence because he lived in a single resident occupancy unit and was not supposed to have others live with him. He was willing to move into mother’s home, but noted that mother would have to move out as there was a restraining order against her. Father explained that because he had low income housing, the children would have to be released to him before he could obtain suitable housing for himself and the children. Mother was unwilling to move out of her home so father could care for the children there.

On October 17, 2017, the juvenile court granted a warrant to remove the children from mother. The department detained the children from mother and placed them with father in his apartment.

On October 20, 2017, the department filed a section 300 petition as to M.B.3 and a section 342 subsequent petition as to her siblings. As sustained, the section 300 petition alleged that mother had a history of substance abuse that included cocaine and marijuana and was a current abuser of and tested positive

for amphetamine and methamphetamine, mother had been under the influence of illicit drugs while caring for and supervising M.B.3, and M.B.3's siblings were current juvenile court dependents. The petition further alleged that father had a history of substance abuse and currently abused marijuana, tested positive for marijuana four times and alcohol once, had been under the influence of marijuana while caring for and supervising the children, was a registered controlled substance offender, had a criminal history of four convictions for possession of a narcotic controlled substance, had a conviction for transportation/sale of a narcotic controlled substance, and had a conviction for possession of marijuana for sale.

As to father, the section 342 petition, as sustained, repeated the allegations in M.B.3's section 300 petition. As to mother, the petition, as sustained, alleged she was a current user of and had tested positive for amphetamine and methamphetamine and she had been under the influence of illicit drugs while caring for and supervising the children.

At the October 23, 2017, detention hearing, the juvenile court detained the children from mother and released all of the them to father except for L.W. whom it placed in a foster home. Father was to take on demand drug tests. Mother was granted monitored visits.

M.B.3's case and her siblings' case were assigned to different judges. The juvenile court in M.B.3's case detained her from mother and released her to father. In both cases, mother agreed to move out of her home and have father move in with the children. M.B.3's juvenile court ordered that the department was to verify that mother was out of the home, mother was not to visit at home, and mother was to take drug tests weekly.

In interviews, father, mother, and the older children addressed the parents' drug use. Father admitted he smoked marijuana daily, explaining, "I have a weed card. Smoking weed to me is like smoking a cigarette. I can take care of my kids just fine." Although he did not use marijuana in front of the children, he had been under the influence of marijuana while caring for them. Michael was aware father smoked marijuana. M.B. and L.W. were not. Michael and L.W. believed that father was able to care for the children.

Mother admitted she smoked marijuana and took methamphetamine. Michael, M.B., and L.W. were unaware of mother's drug use. Michael and L.W. stated that mother was not always able to care for the children.

As for mother's drug use, father stated, "I know she took a pill that may have had meth and other drugs in it, but I don't think she is using straight meth. She can take care of the kids, I know it's a lot at time[s] and taking a pill is how she copes with the stress." Father added, "My kids are not in danger with me or their mother."

On October 24, 2017, a social worker discussed with father mother's monitored visits with the children. They agreed the visits would take place in a department office near father. The social worker reminded father that all of mother's contacts with the children were to be monitored. Because there was a restraining order against mother, the social worker advised father not to have any contact with mother that would violate the restraining order.

On October 29, 2017, the social worker received a voicemail from mother stating, "I am not supposed to have these kids. [Father is] supposed to have them and he down here trying to

leave them on me. He has not taken them to the doctor or none of that. Can you please try to remove my kids somewhere else.” When the social worker returned mother’s phone call, mother denied that father left the children in her care.

Three days later, the wraparound⁶ parent partner observed the children in mother’s care without father’s presence. The prior week, she also had seen mother with the children.

On November 9, 2017, the department received a referral concerning the wraparound parent partner’s observation of the children’s unmonitored visits with mother. The same day, the social worker addressed the visits with father. He explained that he had dropped off the children with mother because the wraparound parent partner was going to drive mother and the children to a visit with L.W. When the social worker informed father that mother said he had attempted to leave the children with her on other occasions, he said his attempts had been unsuccessful.

The social worker reminded father that the juvenile court had ordered that mother’s contact with the children be monitored. If father needed assistance with the children, he was to use those persons he identified as being part of his support system.

Father responded that he was very independent and since the children were removed from mother’s care, he had to manage

⁶ “[T]he Wraparound service program . . . provide[s] ‘family-based service alternatives to group home care using intensive, individualized services. . . . The target population for the program is children in or at risk of placement in group homes [Citation.]’” (*In re W.B. Jr.* (2012) 55 Cal.4th 30, 41, fn. 2.)

two households. Accordingly, he utilized everyone's assistance, including mother's as he had not yet learned how to comb the children's hair or to cook for the children as mother had.

The social worker reminded father of the reason why the children were at risk in mother's care and had been removed. Father responded that he did not feel the children were at risk in mother's care compared to the risk to them in foster care.

On November 13, 2017, the social worker contacted a school counselor about the referral. The counselor stated that she had asked M.B. if he was back at his mother's house. M.B. responded, "Yeah." The counselor also reported that the children had been seen walking to and from school, which suggested that the children were in mother's care. She had not been able to obtain a clear answer from father regarding the children's residence.

On November 21, 2017, the juvenile court issued a warrant removing the children from father's care. At a hearing on the department's ex parte application to remove M.B.3 from father, father testified that the juvenile court had ordered him and the children to reside in mother's home and mother was "supposed to go to a program." If mother failed to comply, the social workers were supposed to notify the juvenile court.

Father further testified that he resided with mother because he wanted Michael and M.B. to remain in their current school and he liked the services the children received by living with mother. He added that he lived at both residences because he had to take the children's dirty clothes to mother's house to wash. The social worker did not explain to him what to do when mother refused to leave. Father admitted mother had visits with the children while he was present, but denied she had

unmonitored visits or he had attempted to leave the children with her.

The juvenile court concluded that father had been staying with the children and mother in mother's home against the court's order. Father had testified he understood the court ordered him to reside in mother's home only if mother was out of the home and enrolled in a program. It further found that father was aware mother was using drugs and he was using marijuana like it was a cigarette while caring for a seven-month-old child. Those findings, the juvenile court ruled, established a prima facie case for detaining M.B.3. It granted father monitored visits.

The hearing with respect to M.B.3's siblings was held the next day. The juvenile court detained the children from father and granted mother and father monitored visits.

For the February 7, 2018, adjudication hearing, M.B.3's case was consolidated with her siblings' case. A last minute information informed the juvenile court that father had failed to enroll in any court ordered services. Father reported he felt as though he acquired from past services the skills needed to be a parent.

The juvenile court sustained the section 300 petition as to M.B.3 and the section 342 petition as to her siblings. It declared the children dependents and removed them from mother's and father's custody. The juvenile court ordered reunification services for mother and father that included a full drug/alcohol program with aftercare, weekly random or on demand drug/alcohol testing, conjoint counseling between mother and father when deemed appropriate, a 52-week parenting program, an anger management program, and monitored visits. Mother also was to participate in individual counseling to address case

issues including but not limited to domestic violence and grief counseling.

Father's counsel argued that a 52-week parenting class was neither appropriate nor required. He argued there had been "no issues" when the children were in father's care. Counsel also requested that father not be required to complete a drug program. Mother's counsel objected to a 52-week parenting class.

The juvenile court responded, "The Court understands the concerns expressed by both counsel. However, this case does have a lengthy history indicating that although there were prior programs and prior services provided, those simply have not been sufficient to render the parents able to provide a safe environment for the children. So while I understand the concern about the intensiveness or the length of the parenting program, the Court will find that the lengthy program is appropriate under the circumstances of this case."

III. DISCUSSION

Father contends the juvenile court abused its discretion when it ordered him to participate in a 52-week parenting course because the order was not supported by substantial evidence. We disagree.

A. *Standard of Review*

We review a juvenile court's dispositional findings for substantial evidence. (*In re T.V.* (2013) 217 Cal.App.4th 126, 136.) A juvenile court's dispositional order may not be reversed

absent a clear abuse of discretion. (*In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1006.)

B. *Analysis*

A “juvenile court has wide latitude in making orders necessary for the well-being of a minor.” (*In re Jasmin C.* (2003) 106 Cal.App.4th 177, 180.) Section 362, subdivision (a) provides that a juvenile court “may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child”

Section 362, subdivision (d) provides, in relevant part: “The juvenile court may direct any reasonable orders to the parents or guardians of the child who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out this section That order may include a direction to participate in a counseling or education program, including, but not limited to, a parent education and parenting program The program in which a parent or guardian is required to participate shall be designed to eliminate those conditions that led to the court’s finding that the child is a person described by Section 300.”

Drug use by mother and father were conditions that led the juvenile court to find that the children were persons described by section 300. As set forth below, father’s conduct suggested he did not take seriously the risk that exposure to his and mother’s drug use posed to the children and, accordingly, his participation in a 52-week parenting program was appropriate.

On October 23, 2017, the juvenile court released the children to father. The next day, the social worker discussed

with father mother's monitored visits with the children. She reminded father that all of mother's contacts with the children had to be monitored.

Less than one week later, on October 29, 2017, mother called the social worker to complain that father had attempted to leave the children with her. Mother asked that the children be placed elsewhere. Three days later, the wraparound parent partner observed the children in mother's care without father's presence.

In a November 8, 2017, interview with a social worker, father stated that he knew mother was using methamphetamine. He stated, however, that he did not think she was taking straight methamphetamine, mother's drug use was how she coped with stress, and the children were "not in danger with . . . their mother."

On November 9, 2017, the social worker confronted father about mother's apparent unmonitored contact with the children. Father acknowledged that he left the children with mother, unmonitored, when the wraparound parent partner was to pick them up for a visit with L.W. Father also admitted he tried to leave the children with mother on other occasions, but claimed he had been unsuccessful.

The social worker then reminded father that the juvenile court had ordered that mother's contact with the children had to be monitored. Father responded that he was managing two households and needed assistance, including mother's assistance. When the social worker reminded father of the reason why the children were at risk in mother's care and had to be removed, father responded that he did not feel the children were at risk in mother's care compared to the risk to them in foster care.

At the November 28, 2017, removal hearing, father claimed he had been staying with mother due to a prior court order that he live in her home. The juvenile court found that father understood that he was not to live in mother's home if mother had not moved out.

Father argues that in light of his successful completion of a 52-week parenting program at Project Fatherhood, his history of successfully parenting his children, his bonded relationship with his children, and his ongoing attempts to meet his children's needs, substantial evidence did not support the juvenile court's implied finding that his participation in a lengthy parenting program was reasonably necessary to prevent him from allowing mother to have unmonitored contact with the children. Father's conduct in allowing mother unmonitored contact with the children despite the juvenile court's order and his denial of and attempts to minimize the risk mother posed to the children support the juvenile court's parenting order. Father's statement that he required mother's assistance to care for the children and his contention that he could care for his children while using marijuana like cigarettes further supports the propriety of a parenting class. Accordingly, the juvenile court did not abuse its discretion in ordering father to participate in a 52-week parenting program.

IV. DISPOSITION

The order is affirmed.

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KIM, J.

We concur:

BAKER, Acting P. J.

MOOR, J.